

(2018) 12 CAL CK 0120
In the Calcutta High Court
Case No : Writ Petition No. 8008(W) Of 2017

Swapan Roy

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 18-12-2018

Acts Referred:

Citation : (2018) 12 CAL CK 0120

Hon'ble Judges : Rajasekhar Mantha, J

Bench : Single Bench

Advocate : Debabrata Roy, Karabi Roy, Chaitali Bhattacharya, Abu Raja Jaglul Kabir

Final Decision : Disposed Off

Judgement

The case of the writ petitioner is as follows. He was working against a sanctioned post as a casual worker under the Karimpur-I Block Development Officer since August 1987. He was working in the post of peon and was performing the duty of water carrier. His initial remuneration was Rs.2,000 per month. Thereafter, in terms of a memorandum of the State Government dated September 16, 2011, he was allowed enhanced remuneration of Rs.8,500 per month since November 2013.

However, it was found that for the purpose of getting the benefit under the said memorandum a final approval by the Principal Secretary or ACS of the concerned department had not been obtained. Recovery proceeding was initiated but was stayed by an earlier order of this court dated April 3, 2017 in the instant writ petition. The petitioner has been receiving his original remuneration of Rs.2,000 per month.

On the question as regards the entitlement to the petitioner, he relies upon a memorandum dated April 23, 2010 issued by the Principal Secretary of the Government of West Bengal (Annexure P6, p.49) whereby he was entitled to Rs.6,600 per moth. In the circumstances, since there is no requirement of any

prior approval by a secretary-level person under the said circular dated April 23, 2010, it is found that the petitioner may be entitled to at least said Rs.6,600 per month.

The next question that needs to be addressed in the writ petition is as to whether the petitioner is eligible for the benefit under the circular dated September 16, 2011. In course of hearing of this matter the writ petitioner has produced two documents. The first one is that of the Additional District Magistrate dated December 1, 2017. Even in the said letter the ADM has found the petitioner possessing the aforesaid qualifications as stated by the BDO concerned and had ordered the BDO to verify the same which the BDO had done as indicated hereinabove. The second document is dated December 4, 2017 passed by the Block Development Officer, Karimpur-I Development Block reply to the ADM wherein the petitioner has been certified as a casual worker engaged against a sanctioned post in the nature of peon and for the purpose of carrying water at a fixed remuneration. It is also certified that the petitioner has been working for not less than 240 days since 1987.

From the above it appears to this court that the writ petitioner may be entitled to all the benefits under the circular dated September 16, 2011. What remains to be done however is approval of the ACS/Principal Secretary of the Panchayat and Rural Development department.

In the circumstances, I dispose of the writ petition directing the Principal Secretary, Department of Panchayat and Rural Development, Government of West Bengal - the second respondent herein - to consider the writ petitioner's case for approval for eligibility in the light of the memorandum dated September 16, 2011 and allow him all benefits, if he is entitled to. The Secretary shall take a decision within two months from the date of communication of this order by passing a reasoned decision, after giving a personal hearing to the writ petitioner. The decision shall be communicated to the petitioner within ten days thereafter. The petitioner is at liberty to produce before the Secretary the letter of the Additional District Magistrate dated December 1, 2017 and the report of the BDO dated December 4, 2017 within a week from the date of receipt of this order. In the decision the Secretary may also consider as to whether the recovery order dated November 11, 2016 should be given effect to or not.

The two letters - one of the BDO dated December 4, 2017 and the second one of the ADM dated December 1, 2017 - are taken on record.

No order as to costs.

Certified website copy of this order, if applied for, shall be given to the parties.